

FILED

NOV 15 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JERRY Y. FONG, ESQ. (SBN 99673)
706 COWPER STREET, SUITE 203
PALO ALTO, CA 94301
650/322-6123
650/322-6779 fax
jf@jerryfong.com

Attorney for Defendant CLEMENTE HERNANDEZ-GARCIA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 12-00077 EJD
)	AND RELATED PROBATION
Plaintiff,)	VIOLATION CASE NO. CR-09-
)	00097 JW
)	
)	STIPULATIONS OF THE PARTIES
)	TO CONTINUE THE HEARING FOR
vs.)	DEFENDANT'S MOTION TO DISMISS
)	<u>INDICTMENT & PROPOSED ORDER</u>
CLEMENTE HERNANDEZ-GARCIA,)	
)	
Defendant.)	

Plaintiff United States of America and Defendant Clemente Hernandez-Garcia hereby jointly stipulate to request that the Court continue the hearing for Defendant's motion to dismiss indictment (based on his contention that he had been denied his right to counsel at the initial deportation hearing). Currently, the hearing is scheduled on November 19, 2012, at 1:30 p.m. The parties agree to jointly request that the Court continue the hearing to February 4, 2013, at 1:30 p.m. This stipulation applies to both the present criminal case (CR-12-00077 EJD) and the related probation violation case (CR-09-00097 JW).

This request is made because the parties are attempting to reach an agreement as to the accuracy of the transcription of the audio tape of that deportation hearing, which would provide the factual basis for the motion to dismiss. In addition, the parties are also attempting to negotiate a possible resolution of this entire case. Finally, Defendant Hernandez-Garcia's counsel is working with an immigration law attorney who would provide

1 expert testimony to support this motion and that attorney needs the additional time to
2 conclude her work.

3 The parties are jointly requesting that the matter (for both case # CR 12-00077 EJD
4 and case # CR 09-00097 JW) be continued to February 4, 2013 because that is the first
5 mutually available date without scheduling conflicts for the two parties, after taking into
6 account the time necessary to accomplish the items identified above.

7 Therefore, the parties jointly request that the Court continue the hearing from
8 November 19, 2012 to February 4, 2013, at 1:30 p.m., and that the time from November 19,
9 2012 to February 4, 2013, be excluded from the Speedy Trial calculations, for effective
10 assistance of counsel and for the pending motion to dismiss.

11
12 DATED: November 14, 2012

Respectfully submitted,

13
14
15 /S/

16 JERRY Y. FONG, Attorneys for Defendant
CLEMENTE HERNANDEZ-GARCIA

17
18 DATED: November 14, 2012

Respectfully submitted,

19
20
21 /S/

22 SAUSA ANN MARIE URSINI, Attorneys for
Plaintiff UNITED STATES OF AMERICA

23
24 PROPOSED ORDER

25 Pursuant to the parties' stipulation and good cause appearing herein, it is hereby
26 ordered that the hearing for the Defendant's motion to dismiss indictment in this case shall
27 be continued from November 19, 2012, to February 4, 2013, at 1:30 p.m., for effective
28

1 assistance of counsel and the pending motion to dismiss. Time between November 19, 2012
2 and February 4, 2013, shall be excluded accordingly, for Speedy Trial purposes and
3 calculation. This order applies to both Case # CR 12-00077 EJD and Case # CR 09-00097
4 JW. It is so ordered.

5
6 DATED: 11/15/12



JUDGE OF THE UNITED STATES
DISTRICT COURT